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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Hisayoshi Tsubaki

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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC

8321 OLD COURTHOUSE ROAD

SUITE 200

VIENNA, VA 22182-3817

EXAMINER

PERUNGAVOOR, SATHYANARAYA V

ART UNIT

PAPER NUMBER

2624

MAIL DATE

DELIVERY MODE

03/06/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/058,924	TSUBAKI ET AL.	
	Examiner	Art Unit	
	SATH V. PERUNGAVOOR	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,9-11,15-17,19-21,37-40 and 42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,9-11,15-17,19-21,37-40 and 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)
2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/28/2008</u> | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) <input type="checkbox"/> Notice of Informal Patent Application
6) <input type="checkbox"/> Other: _____. |
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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

[1] A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 29, 2008 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[2] Claims 1, 9, 15-17, 19-21 and 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kawata**ⁱ in view of **Bley**ⁱⁱ further in view of **Conner**ⁱⁱⁱ et al. (“Conner”).

Regarding claim 1, Kawata discloses the following claim limitations:

An image recording method [fig. 6], comprising: loading identification information (*i.e.* S1, ID number) of a value or a binary information preliminary added to a subject and subject information (*i.e.* S2, face image signal retrieved from the database, note: the interpretation here comes from applicant's invention, i.e. how the applicant's invention accomplishes this task, see specification page 4, ll. 13-23) used by a photographer to confirm an identity

of the subject, in a digital camera before photographing the subject [col. 5, ll. 60-67, col. 6, ll. 1-5]; displaying, on a basis of the subject information (*i.e. face image*), subject information (*i.e. face image*) used by the photographer to confirm the identity of the subject on a display device before photographing the subject [fig. 2; col. 6, ll. 5-10]; photographing (*i.e. updating the face image*) the subject using the digital camera after confirming the identity of the subject on the basis of the subject information (*i.e. face image*) displayed on the display device [fig. 2, col. 8, ll. 9-20, col. 5, ll. 42-45]; and recording the photographed image (*i.e. new face image*) of the subject in connection with the loaded identification information (*i.e. ID number*) [col. 8, ll. 29-42]; and wherein the image recorded (*i.e. new face image*) in connection with the loaded identification information (*i.e. ID number*) is saved to a database [col. 8, ll. 37-42; col. 7, ll. 45-47]; and wherein the identification information loading step comprises: reading the subject information (*i.e. S2, face image signal*) corresponding to read subject identification information (*i.e. ID number*), from a database having the subject information (*i.e. face images*) already stored in connection with the subject identification information (*i.e. ID number*) [col. 6, ll. 1-5, col. 7, ll. 45-47]; and transmitting the subject information (*i.e. face image*) read from the database, to the digital camera together with the identification information (*i.e. ID number*) [col. 5, ll. 60-64 and col. 6, ll. 1-5]; and wherein the subject information comprises at least one of the (1) subject's photograph (*i.e. face image*) and (2) name [col. 6, ll. 1-5].

Kawata does not explicitly disclose the following claim limitations (emphasis added):

a display step of displaying on a display device of the digital camera; reading the subject identification information from a recording medium having the subject identification information recorded thereon;

However, in the same field of endeavor Bley discloses the deficient claim limitations, as follows:

a display step of displaying on a display device (*i.e.* 13) of the digital camera (*i.e.* 10) [*fig. 2A; col. 4, ll. 35-40*]; a step of reading the subject identification information from a recording medium (*i.e. floppy disk*) having the identification information recorded thereon [*col. 4, ll. 30-35*];

It would have been obvious to one with ordinary skill in the art at the time of invention to modify the teachings of Kawata with Bley in order to obtain a compact and self-contained system [*col. 1, ll. 20-23*].

Kawata and Bley do not explicitly disclose the following claim limitations:

wherein the recording records the identification information loaded in the information loading, in a header part of an image file in which the photographed subject image is recorded.

However, in the same field of endeavor Conner discloses the deficient claim limitations, as follows:

A recording step records the identification information loaded (*i.e. patient id*) in the information loading step, in a header part (*i.e. 400*) of an image file in which the photographed subject image is recorded [*col. 8, ll. 42-65*].

It would have been obvious to one with ordinary skill in the art at the time of invention to modify the teachings of Kawata and Bley with Conner so as to store the identification information in the header, the reasoning being to enable file interchange [*col. 1, ll. 8-13*].

Regarding claim 9, Kawata meets the claim limitations, as follows:

The image recording method according to claim 1, wherein: reading the identification information reads plural pieces of identification information so that these pieces can be accumulated [*col. 5, ll. 50-57*]; and the transmitting transmits the identification information and the subject information in response to an information obtainment request from the digital camera [*col. 6, ll. 1-10*].

Regarding claim 15 all claimed limitations are set forth and rejected as per discussion for claim 1.

Regarding claim 16, Bley meets the claim limitations, as follows:

The image recording apparatus according to claim 15, wherein the recording medium comprises one of a card, a magnetic card (*i.e. floppy disk*), and an IC card including a bar code recorded thereon, and the input device comprises a card reader (*i.e. floppy disk drive*) [*col. 4, ll. 30-35*].

Regarding claim 17 Kawata meets the claim limitations, as follows:

The image recording apparatus according to claim 15, further comprising a communication device which transmits the image recorded in connection with the identification information, to the database [*col. 8, ll. 30-37*].

Regarding claims 19, 20 and 21 all claimed limitations are set forth and rejected as per discussion for claims 1, 16 and 17.

Regarding claims 37, 38, 39 and 40 all claimed limitations are set forth and rejected as per discussion for claim 1.

[3] Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kawata** in view of **Bley** further in view of **Conner** further in view of **Saito**^{iv}.

Regarding claim 6, Kawata, Bley and Conner meet the claim limitations as set forth in claim 1.

Kawata, Bley and Conner do not explicitly disclose the following claim limitations:

The image recording method according to claim 1, wherein while the subject identification information and the subject information are being transmitted to the digital camera, the digital camera is inhibited from being used for photographing.

However, in the same field of endeavor Saito discloses the deficient claim limitations, as follows:

The image recording method according to claim 5, wherein while the subject identification information and the subject information are being transmitted to the

digital camera (*i.e. communication mode enabled*), the digital camera is inhibited from being used for photographing (*i.e. photographing mode disabled*) [col. 16, ll. 16-22].

It would have been obvious to one with ordinary skill in the art at the time of invention to modify the teachings of Kawata, Bley and Conner with Saito to disable photographing while transmitting, the reasoning being to save power usage.

Regarding claim 10 all claimed limitations are set forth and rejected as per discussion for claim 6.

[4] Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kawata** in view of **Bley** further in view of **Conner** further in view of **Fukuoka**^r et al. (“Fukuoka”).

Regarding claim 11, Kawata, Bley and Conner meet the claim limitations as set forth in claim 1.

Kawata, Bley and Conner do not explicitly disclose the following claim limitations:

The image recording method according to claim 1, wherein: the information loading loads recorded image information containing at least one of image format, the number of pixels, compression rate, file size, and image aspect ratio; and the digital camera records the photographed image on a basis of the loaded recorded image information.

However, in the same field of endeavor Fukuoka discloses the deficient claim limitations, as follows:

The image recording method according to claim 1, wherein: the information loading loads recorded image information containing at least one of image format (*select format*), the number of pixels, compression rate, file size, and image aspect ratio; and the digital camera records (*i.e. make selected file*) the photographed image on a basis of the loaded recorded image information (*i.e. selected format*) [fig. 11; col. 24, ll. 45-55].

It would have been obvious to one with ordinary skill in the art at the time of invention to modify the teachings of Kawata, Bley and Conner with Fukuoka to make an image file based on selected format, the reasoning being to enable compatibility with other systems.

[5] Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kawata** in view of **Bley** further in view of **Conner** further in view of **Allen**^{vi} et al. ("Allen").

Regarding claim 42, Kawata, Bley and Conner meet the claim limitations as set forth in claim 1.

Kawata, Bley and Conner do not explicitly disclose the following claim limitations:

The image recording method according to claim 1, wherein the recording further comprises transmitting the recorded photographed image, together with the identification information in the header part of the image file, to a data base and an image display device by a radio from the digital camera, after said confirming the identity of the subject, and after said photographing the subject.

However, in the same field of endeavor Allen discloses the deficient claim limitations, as follows:

Transmitting the recorded photographed image, together with the identification information in the header part of the image file (*i.e.* 70), to a data base (*i.e.* 78) and an image display device (*i.e.* 76) by a radio from the digital camera (*i.e.* 35) [figs. 1 and 2]. It would have been obvious to one with ordinary skill in the art at the time of invention to modify the teachings of Kawata, Bley and Conner with Allen for wireless transmission of images the motivation being to eliminate the need to download in to a PC [*col. 1, ll. 25-30*].

Contact Information

[6] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Sath V. Perungavoor whose telephone number is (571) 272-7455. The examiner can normally be reached on Monday to Friday from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Matthew C. Bella whose telephone number is (571) 272-7778, can be reached on Monday to Friday from 9:00am to 5:00pm. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 2624

Dated: March 6, 2009

/Sath V. Perungavoor/

Sath V. Perungavoor

Telephone: (571) 272-7455

ⁱ US 6,542,627 B1

ⁱⁱ US 6,038,012

ⁱⁱⁱ US 5,579,393

^{iv} US 5,724,155

^v US 5,960,155

^{vi} US 5,737,491